

## **INTERLOCAL AGREEMENT**

This Agreement is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between the CITY OF NORTH BEND (the “City”), KING COUNTY FIRE DISTRICT No. 38 (“FD38”) and the CITY OF BELLEVUE (“Bellevue”) (collectively, the “Parties” and each a “Party”). This Agreement is made pursuant to chapter 39.34 RCW (the “Interlocal Cooperation Act”) and has been authorized by the governing body of each Party. Each of the Parties is a “public agency” as defined in the Interlocal Cooperation Act.

### **RECITALS**

WHEREAS, North Bend and Bellevue are both municipal corporations of the State of Washington, organized and operating under the Optional Municipal Code; and

WHEREAS, Bellevue Fire Department is one of six Advanced Life Support (ALS) Emergency Medical Service (EMS) provider agencies in King County; and

WHEREAS, Bellevue’s Medic Three is currently housed at Eastside Fire & Rescue (EF&R) Station 87, which is no longer serviceable for that purpose; and

WHEREAS, the Parties determined that repairing and upgrading the current Station 87 building would incur more expense than relocating the building; and

WHEREAS, North Bend is the owner of certain real property located at 500 Maloney Grove Avenue Southeast, North Bend, WA (PROPERTY). King County vetted the PROPERTY in 2007 and concluded it was ideally suited for Medic Three response time; and

WHEREAS, North Bend has entered into an agreement with King County Fire District No. 38 for the development of a fire station (“Facility”) on the PROPERTY, to be shared as tenants in common and owned 50% each;

WHEREAS, King County Emergency Medical Services (“KCEMS”) granted Bellevue \$250,000 for the purpose of continuing to provide ALS services to the Medic Three service area in east King County;

WHEREAS, KCEMS conditioned its funding of the \$250,000 to Bellevue on Bellevue securing an agreement with North Bend requiring the City of North Bend to provide two additional bunkrooms, an EMS office, an EMS storage room and an additional apparatus bay to accommodate Medic Three operations; and

WHEREAS, Bellevue has agreed to provide the \$250,000 in funds from KCEMS (“Payment”) to North Bend conditioned upon execution of this Agreement and the promises herein, including the right to use, occupy, and enjoy the Premises;

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

## **1. PURPOSE AND OBJECTIVES**

- 1.1 The purpose of this Agreement is to provide housing for Bellevue's Medic Three unit. For this purpose, North Bend agrees to provide in the FACILITY located on the PROPERTY (collectively, "the Premises"), a building with two additional bunkrooms, an EMS office, an EMS storage room and an additional apparatus bay. North Bend agrees to lease the PREMISES to Bellevue for the term provided below.
- 1.2 No separate legal entity is created by this Agreement.
- 1.3 Specific objectives of the Parties include the following:
  - a. To continue to provide ALS services in east King County;
  - b. To continue to be housed at a location that is suitable to emergency response times for the Medic Three service area.

## **2. TERM**

- 2.1 **Initial Term**. The initial term of this Agreement shall be a period of fifteen (15) years ("Initial Term").
- 2.2 **Additional Term**. This Agreement automatically renews for an additional term of fifteen (15) years (Additional Term) upon the written consent of both parties.

## **3. TERMINATION**

- 3.1 **North Bend's Right to Terminate**. Notwithstanding anything to the contrary in this Agreement, North Bend acting together with FD 38, shall have the right to terminate this Agreement at any time during the Initial Term and/or any Additional Term, following at least one-hundred-eighty (180) days written notice to Bellevue. If North Bend/FD 38 elect to terminate, the Agreement will terminate on the date specified in the notice as the termination date, provided that such date will be no sooner than one-hundred-eighty (180) days from the date of notice. Upon termination, the Parties will be released from any further obligations under this Agreement, except for (i) payment of all amounts accrued under this Agreement before the termination date; (ii) any causes of action arising or accruing up to the date of termination; (iii) any indemnification or other provisions which, by their terms, are intended to survive termination of this Agreement; and (iv) if the Agreement is terminated during the Initial Term, repayment by North Bend/FD 38 to Bellevue of a pro-rated portion of the Payment, where one year is equal to 1/15 of the initial one-time payment.
- 3.2 **Bellevue's Right to Terminate**. Notwithstanding anything to the contrary in this Agreement, Bellevue shall have the right to terminate this Agreement at any time during the Initial Term and/or any Additional Term, following one-hundred-eighty

days (180 days) written notice to North Bend and FD 38. If Bellevue elects to terminate, the Agreement will terminate on the date specified in the notice as the termination date, provided that such date will be no sooner than one-hundred-eighty (180) days from the date of notice. Upon any such termination, the Parties will be released from any further obligations under this Agreement, except for (i) payment of all amounts accrued under this Agreement before the termination date; (ii) any causes of action arising or accruing up to the date of termination; and (iii) any indemnification or other provisions which, by their terms, are intended to survive termination of this Agreement.

- 3.3 **Mutual Termination or Termination by King County EMS.** Notwithstanding the above, the Parties may mutually agree to terminate this Agreement. Such termination shall be in writing signed by both parties, and termination shall be effective on a mutually agreed-upon date and upon such terms as are acceptable to each party. If King County EMS determines that Station 87 is no longer an appropriate location for Medic Three operations, this Agreement will be terminated, without any Party being in breach of the Agreement.

#### 4. POSSESSION, SURRENDER, & ABANDONMENT

- 4.1 **Possession.** Except as provided elsewhere in this Agreement, Bellevue is entitled to possession of the PREMISES on the Effective Date.
- 4.2 **Surrender.** At the expiration, or earlier termination of this Agreement, Bellevue shall return the PREMISES to North Bend in the same condition in which received, or, if altered by North Bend or Bellevue by consent, then the PREMISES may be returned to North Bend in such altered condition; broom clean, reasonable wear and tear accepted. Bellevue shall return all keys to North Bend within thirty-six (36) hours of termination. Bellevue's obligation to perform these covenants shall survive the expiration or termination of this Agreement.
- 4.3 **Abandonment.** Bellevue agrees not to abandon the PREMISES at any time during the Initial Term and/or any Additional Term. Should Bellevue abandon the PREMISES such action shall be considered a breach of this Agreement and in addition to any additional remedies which North Bend may have at law, North Bend may remove any personal property belonging to Bellevue which remains on the PREMISES and may store or otherwise dispose of the same. The cost of such removal, storage, and/or disposal shall be Bellevue's liability. Notwithstanding the foregoing, Bellevue will not be in breach of this Agreement if it vacates the Premises pursuant to a valid court order or by reason of a catastrophic natural disaster, emergency, or other unsafe condition of the Premises.
- 4.4 **Holdover.** If Bellevue remains in possession of the PREMISES in whole or in part after the expiration or termination of this Agreement, with or without the consent of North Bend, such tenancy shall constitute a month-to-month tenancy and shall be terminable only as allowed by Washington State law, and shall be subject to every term, covenant, and agreement contained herein.

## 5. USE

- 5.1 **Allowed Use.** Bellevue covenants that at all times during the Initial Term and/or any Additional Term and such other time as Bellevue occupies the PROPERTY, Bellevue shall use the PROPERTY only for office space, sleeping quarters, medic unit parking and other uses ancillary to the provision of life support services by the Bellevue Fire Department on behalf of King County, its successors or assigns. Bellevue shall use the PROPERTY for no other purpose without the prior written consent of North Bend.
- 5.2 **Prohibited Use.** Bellevue shall not do or allow anything to be done on or about the PROPERTY or bring or keep anything on or about the PROPERTY which will in any way increase or affect the standard rate of any fire or other insurance policy upon the PROPERTY, or cause the cancellation of any such insurance policy covering the PROPERTY, or which will in any way obstruct or interfere with the medical care facility use of the PROPERTY.

## 6. RENT AND OTHER CHARGES

- 6.1 **Base Rent.** In exchange for the promises contained herein, Bellevue shall make a one-time payment to North Bend of two-hundred-fifty-thousand-dollars (\$250,000) for the Initial Term of this Agreement ("Payment").
- 6.2 **Security Deposit.** None.
- 6.3 **Leasehold Excise Tax.** No leasehold excise tax is applicable to this transaction as all entities involved are exempt as public entities.
- 6.4 **Utilities.** North Bend shall ensure all utilities are paid. (All utilities are paid by Eastside Fire & Rescue under the terms of their existing partnership agreement for Station 87 maintenance & operations.)

## 7. IMPROVEMENTS & MAINTENANCE

- 7.1 **North Bend/FD 38's Obligations.** North Bend shall ensure the Premises are maintained in a safe and habitable condition, fit for the purpose and objectives stated in this Agreement. Customary improvement & maintenance costs will be paid by Eastside Fire & Rescue under the terms of their existing partnership agreement with North Bend for Station 87 maintenance & operations. Any costs not paid under the terms of the EF&R agreement will be paid as follows: North Bend will share other improvement & maintenance costs with King County Fire District #38 at 50% each, except that Bellevue shall reimburse North Bend for any costs incurred in non-customary maintenance and repairs that arise from Bellevue's improper or non-customary use of the PREMISES.
- 7.2 **Bellevue's Obligations.** Bellevue agrees to exercise reasonable care in the use of the PREMISES for the purposes authorized herein and agrees to reimburse North Bend for any costs incurred in non-customary maintenance and repairs that arise

from Bellevue's improper or non-customary use of the PREMISES. Bellevue agrees to reimburse North Bend and /or EF&R and/or FD 38 for a reasonable pro-rata share of furniture, fixture and equipment costs that can be directly attributable to Bellevue or to common areas used by Bellevue.

7.3 **Improvements and Alterations.** Bellevue may request improvements and alterations in writing provided to EF&R, North Bend and FD 38. Bellevue agrees it may be required contribute to reasonable costs and expenses for these improvements/alterations.

7.4 **Failure to Maintain.** In the event that any Party fails to perform its obligations as stated above, the other Party shall give notice of the failure and request remediation by the non-performing party. In the event that the non-performing Party fails to promptly undertake such actions as are necessary to perform its obligations, the other Party has the option, but is not required, to perform such acts as are reasonably necessary to fulfill the obligations and to be reimbursed for any costs incurred within thirty (30) days from the date of providing an invoice for such costs to the non-performing party.

## 8. INSURANCE

8. **Insurance.** Bellevue maintains coverage that addresses its commercial general liability loss exposures and personal property coverage via a program of self-insurance in compliance with RCW 48.62. If Bellevue changes its self-insurance status, it will notify North Bend/FD 38 and provide them with evidence of coverage for said exposures via certificates of insurance.

## 9. INDEMNIFICATION

9.1 **Mutual Indemnification.** Each Party shall protect, defend, indemnify and hold harmless the other two Parties, their officials, officers, employees and agents from any and all costs, claims, losses, and expenses (including reasonable attorneys' fees and costs incurred on such claims and in pursuing the right to indemnification), judgments, or awards of damages arising out of or in any way resulting from the negligent acts or omissions of the indemnifying party related to this Agreement. The Parties agree that their obligations under this paragraph extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, the Parties, by mutual negotiation, hereby waive, as respects the other two parties only any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW.

9.2 **Survival of Indemnification.** The provisions of this section shall survive the expiration or termination of this Agreement.

## 10. RESOLUTION OF DISPUTES

10.1 **Procedures to Follow.** If a dispute arises between the Parties concerning the performance of any provision of this Agreement or the interpretation thereof, the Parties agree to follow the procedures set forth herein. It is the goal of the parties to resolve differences as early in this step-process as possible.

- A. **Step One – Informal Discussions.** Each Party shall designate a representative, who shall meet and attempt to resolve the dispute. This may involve more than one meeting.
- B. **Step Two – Written Notification and Resolution.** If informal discussions are not successful, then the aggrieved Party shall mail, via certified mail, written notice of dispute to the other Party's address shown in Section 11 of this Agreement. The notice shall set forth the nature of the dispute and the desired outcome. A written response shall be provided by the recipient of the notice within ten (10) days' receipt of the certified, mailed notice. The response to the notice shall include the respondent's version of the dispute and a proposed resolution. The Parties shall meet within then (10) business days following respondent's answer to determine whether the dispute can be resolved amicably. If the dispute is amicably resolved, the Parties shall sign a memorandum of understanding with regards thereto.
- C. **Step Three – Mediation.** If the Parties are unable to resolve their differences at Step Two, the Parties will endeavor to settle the dispute by mediation. Such mediation will be non-binding but a condition precedent to having the dispute resolved pursuant to Arbitration, below. Mediation shall commence, unless otherwise agreed, within thirty (30) days of a Party's written request to the other Party for mediation of a dispute. Any resolution of the dispute at this stage shall be reduced to writing and, if the resolution involves an interpretation of the Agreement herein, the Agreement herein shall be amended to include the interpretation.
- D. **Step Four – Arbitration.** If the Parties are unable to resolve their differences at Step Three, the dispute may be resolved by arbitration upon mutual agreement of the Parties. A written notice requesting arbitration must be delivered to the other Parties. The Parties will select an arbitrator by mutual agreement. If the parties cannot agree on an arbitrator within 10 working days after the arbitration request notice has been received, then each Party will appoint a non-interested representative who shall jointly choose an arbitrator. If an arbitrator is not selected within 30 days after the arbitration request notice has been received, then either party may institute suit in King County Superior Court.

## 11. MISCELLANEOUS PROVISIONS

- 11.1 **Amendment.** This Agreement may be amended only upon written agreement signed by both Parties.
- 11.2 **Waiver.** The waiver by any Party of any breach of any term, covenant, or condition of this Agreement shall not be deemed a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition of this Agreement.
- 11.3 **Injunctive Relief.** Nothing in this agreement shall impair a Party's right to seek injunctive relief from the Court if immediate and irreparable injury, loss or damage to any rights arising from this Agreement will occur.
- 11.4 **No Impairment of Contracts.** Nothing in this Agreement impairs or infringes on any Parties' rights or obligations pursuant to any other validly executed Interlocal Agreement or contract.
- 11.5 **Severability.** If any provision of this Agreement or application thereof to any Party or circumstance, is held invalid by a court of competent jurisdiction, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are declared to be severable.
- 11.6 **Signatures.** This Agreement shall be effective whether signed by the Parties on the same document or in counterparts.
- 11.7 **Statutory Authority.** Nothing in this Agreement shall be construed to limit or alter the underlying statutory authority or the responsibilities of North Bend, FD 38, or Bellevue.
- 11.8 **Notices.** All notices or other communications shall be deemed sufficient hereunder if made in writing and delivered both by electronic mail and by first-class mail, postage prepaid, to each Party at its respective address set forth below, or such other address as such Party may hereafter designate to the others in writing:

CITY OF NORTH BEND  
City Administrator  
211 Main Avenue N.  
P.O. Box 896  
North Bend, WA 98045

CITY OF BELLEVUE  
Fire Chief  
450 110<sup>th</sup> Ave NE  
P.O. Box 90012  
Bellevue, WA 98009

KING COUNTY FIRE DISTRICT No. 38  
ATTN: Ron Pedee  
P.O. Box 44  
North Bend, WA 98045

Notices sent by mail shall be deemed given when properly mailed, and the postmark affixed by the United States Post Office shall be conclusive evidence.

11.9 **Recordation.** This Agreement shall be filed with the King County Office of Records and Elections or otherwise posted to comply with state and local law.

IN WITNESS WHEREOF, this Agreement has been executed by each Party as set forth below:

CITY OF NORTH BEND

CITY OF BELLEVUE

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

KING COUNTY FIRE DISTRICT No. 38

By: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_

City Attorney